

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

JACK R. COBLE,

Plaintiff,

V.

**JAMES EUGENE SHOWS and
NEW DAIRY ALABAMA LLC, *et al.*,**

Defendants.

CIVIL ACTION NO. 22-00258-KD-B

ORDER

Previously, the Court ordered Defendant New Dairy Alabama LLC to supplement its Notice of Removal (doc. 5). The Court explained that as the removing Defendant, New Dairy has the “burden of establishing the citizenship of the parties.” Rolling Greens MHP, L.P. v. Comcast SCH Holdings, LLC, 374 F.3d 1020, 1022 (11th Cir. 2004). New Dairy alleged that Plaintiff Jack R. Coble is a citizen of Tennessee. However, New Dairy’s allegations of its citizenship were deficient. Specifically, New Dairy alleged that its “principal place of business ... is in the State of Texas”, and that “New Dairy is incorporated in the State of Delaware” (doc. 1, p. 4). Also, in New Dairy’s Corporate Disclosure Statement, it listed sixteen (16) limited liability companies as either parents or affiliates (doc. 2). The Court explained that citizenship for a limited liability company is determined by the citizenship of its members, not by the state of formation or principal place of business (doc. 5). The Court further explained that the rule for diversity jurisdiction in this Circuit is that a “limited liability company is a citizen of any state of which a member of the company is a citizen.” (Id., citing Rolling Greens MHP, L.P., 374 F. 3d at 1021). And to show that its citizenship is diverse from Coble, New Dairy “must list the citizenships of all the members of the limited liability company”. (Id., citations omitted).

This action is now before the Court on New Dairy’s Amended Notice of Removal and Affidavit (doc. 6, doc. 6- 2). New Dairy Alabama, LLC identifies itself as a “wholly-owned

subsidiary” of New National Dairy LLC, and states that it is a “wholly-owned subsidiary” of yet another LLC, and then identifies three more “wholly-owned” subsidiaries. New Dairy identifies the ultimate owner of the subsidiaries as New Dairy Holdco LLC. The Court assumes that the only member of each previous LLC is the LLC by which it is a wholly owned.

New Dairy then lists New Dairy Holdco LLC’s state of formation and its ownership and control. Among those owners or controllers are corporations, more LLCs identified by place of formation and ownership and control, two trusts, and individual owners whose residence is listed (doc. 6, p. 5-8). The Court also assumes that these are the only members of New Dairy Holdco LLC.¹ **If the Court’s assumptions are incorrect then the Defendants are ORDERED to correct the assumptions on or before October 28, 2022.**

However, even so, New Dairy Alabama LLC has alleged the individual members residence, e.g., “Peter Schenkel (Resident of Texas)” and alleges that Defendant James Shows is a “resident of Mississippi” (doc. 6). Accordingly, New Dairy is **ORDERED** to file on or before **October 28, 2022**, a **supplement** to its Amended Notice of Removal to properly allege the citizenship of the individual members of the LLCs and Defendant Shows. See Taylor v. Appleton, 30 F.3d 1365 (11th Cir. 1994) (“Citizenship, not residence, is the key fact that must be alleged in the complaint to establish diversity for a natural person.”).

DONE and ORDERED this 14th day of October 2022.

s / Kristi K DuBose
KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE

¹ For example, New Dairy Management Holdings LLC is listed as one of the four owners and controllers of New Dairy Holdco, LLC. Its owners and controllers are listed as CPP Fund I, LLC and ten individuals. The owners and controllers of CPP Fund I, LLC are listed as a corporation and two more LLCs – GFE Holdings LLC and Capital Peak Aggregator I LLC. The owner and controllers of these two LLCs are listed as a trust and trustee, a corporation, and five individuals.